



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 1552

#### EPA-HQ-OARM-2018-0742; FRL 9987-89-OARM

Environmental Protection Agency Acquisition Regulation (EPAAR) Clause Update for  
*Submission of Invoices*

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is revising its *Submission of Invoices* clause to add electronic invoicing requirements. In 2019 the EPA will begin using the Invoice Processing Platform (IPP), which is a secure web-based service provided by the U.S. Treasury that efficiently manages government invoicing.

**DATES:** Comments must be received on or before **[insert date 60 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OARM-2018-0742, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file

sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Thomas Valentino, Policy, Training and Oversight Division, Acquisition Policy and Training Branch (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-4522; email address: [valentino.thomas@epa.gov](mailto:valentino.thomas@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. General Information**

1. *Submitting Classified Business Information.* Do not submit CBI to EPA website <https://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI, and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, *Federal Register* date and page number).

- Follow directions – The Agency may ask you to respond to specific questions or organize comments by referencing a *Code of Federal Regulations* (CFR) Part or section number.

- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.

- Describe any assumptions and provide any technical information and/or data that you used.

- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns, and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

- Make sure to submit your comments by the comment period deadline identified.

## **II. Background**

The EPA is revising clause 1552.232-70, *Submission of Invoices*, to add electronic invoicing requirements. On September 13, 2018, the EPA issued a direct final rule in 83 FR 46418 that in part revised the subject clause to incorporate a 1996 class deviation and make minor administrative updates. This proposed rule revises the clause again since the EPA will begin using the Invoice Processing Platform (IPP) in 2019, which is a secure web-based service provided by the U.S. Treasury that efficiently manages government invoicing. Currently the EPA requires

contractors and vendors to submit paper invoices, which are inefficient and costly. The EPA will also begin using IPP to satisfy the requirements of Office of Management and Budget (OMB) Memorandum M-15-19, *Improving Government Efficiency and Saving Taxpayer Dollars Through Electronic Invoicing*. By changing the subject clause to require electronic invoicing, the EPA will reap benefits of efficiency and cost that have become ubiquitous in modern commerce, and be in compliance with Memorandum M-15-19.

### **III. Proposed Rule**

The proposed rule proposes to amend EPAAR Part 1552, *Solicitation Provisions and Contract Clauses*, by revising EPAAR § 1552.232-70, *Submission of Invoices*.

1. EPAAR § 1552.232-70, *Submission of Invoices* clause is revised to provide new electronic invoicing requirements as the EPA begins using the IPP electronic-invoicing program in 2019. The clause is revised by replacing the current preamble and paragraphs (a) and (b) with new paragraphs (a) and (b), that update the old paper invoicing instructions to electronic invoicing. Paragraph (g)(5) is being revised to remove references to suspended costs, which are not authorized under IPP. The “Note to paragraph (i)” and “Note to paragraph (j)” are also being revised to remove references to suspended costs. Finally, paragraph (k) and “Note to paragraph (k)” are being removed because suspended costs are not allowed under IPP, which re-letters the last three paragraphs redesignating paragraphs (l) through (n) as paragraphs (k) through (m), respectively.

### **IV. Statutory and Executive Orders Reviews**

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a “significant regulatory action” under the terms of Executive Order (E.O.)

12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the E.O.

*B. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b).

*C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.*

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute; unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impact of this final rule on small entities, “small entity” is defined as:

(1) A small business that meets the definition of a small business found in the Small Business Act and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. After considering the economic impacts of this rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, because the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives “which minimize any significant economic impact of the proposed rule on small entities” 5 U.S.C. 503 and 604. Thus, an agency

may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This action revises an existing EPAAR clause that will not have a significant economic impact on a substantial number of small entities. We continue to be interested in the potential impacts of the rule on small entities and welcome comments on issues related to such impacts.

#### *D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Local, and Tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of the Title II of the UMRA) for State, Local, and Tribal governments or the private sector. The rule imposes no enforceable duty on any State, Local or Tribal governments or the private sector. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and Local officials in the development of regulatory policies that have federalism implications. “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This rule does not have tribal implications as specified in Executive Order 13175.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045, entitled “Protection of Children from Environmental Health and Safety Risks” (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12886, and (2) concerns an environmental health or safety risk that may have a proportionate effect on children. This rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions on environment health or safety risks.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use” (66 FR 28335 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act of 1995 (NTTAA)*

Section 12(d) (15 U.S.C. 272 note) of the National Technology Transfer and Advancement Act of 1995, Public Law 104-113, directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical.

Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629 (February 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment in the general public.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a major rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804(2) defines a “major rule” as any rule that the Administrator of the Office of Information and



Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in (1) an annual effect on the economy of \$100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. EPA is not required to submit a rule report regarding this action under section 801 as this is not a major rule by definition.

#### **List of Subjects in 48 CFR Part 1552**

Environmental protection, Solicitation provisions and contract clauses.

Dated: December 3, 2018.

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Kimberly Y. Patrick,

Director, Office of Acquisition Solutions.

For the reasons set forth in the preamble, EPA proposes to amend 48 CFR part 1552 as follows:

## **PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

1. Authority: The authority citation for part 1552 continues to read as follows:

**Authority:** 5 U.S.C. 301 and 41 U.S.C. 418b.

2. Section 1552.232-70 is amended by:

- a. Revising paragraphs (a), (b), and (g)(5);
- b. Revising “Note to paragraph (i)” and “Note to paragraph (j)”;
- c. Removing paragraph (k) and “Note to paragraph (k)”;
- d. Redesignating paragraphs (l) through (n) as paragraphs (k) through (m).

The revisions read as follows:

### **§ 1552.232-70 Submission of invoices.**

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#### *(a) Electronic invoicing and the Invoice Processing Platform (IPP)—*

(1) *Definitions.* As used in this clause—

“Contract financing payment” and “invoice payment” are defined in Federal Acquisition Regulation (FAR) 32.001.

“Electronic form” means an automated system that transmits information electronically from the initiating system to all affected systems. Facsimile, e-mail, and scanned documents are not acceptable electronic forms for submission of payment requests. However, scanned documents are acceptable when they are part of a submission of a payment request made using Invoice Processing Platform or another electronic form authorized by the Contracting Officer.

“Payment request” means any request for contract financing payment or invoice payment

submitted by the Contractor under this contract.

(2) (i) Except as provided in paragraph (c) of this clause, the Contractor shall submit invoices using the electronic invoicing program Invoice Processing Platform (IPP), which is a secure web-based service provided by the U.S. Treasury that more efficiently manages government invoicing.

(ii) Under this contract, the following documents are required to be submitted as an attachment to the IPP invoice: *(This is a fill-in for acceptable types of required documentation, such as an SF 1034 and 1035, or an invoice/self-designed form on company letterhead that contains the required information.)*

(iii) The Contractor's Government Business Point of Contact *(as listed in System for Award Management (SAM))* will receive enrollment instructions via email from the IPP. The Contractor must register within 3 to 5 days of receipt of such email from IPP.

(iv) Contractor assistance with enrollment can be obtained by contacting the IPP Production Helpdesk via email at [IPPCustomerSupport@fiscal.treasury.gov](mailto:IPPCustomerSupport@fiscal.treasury.gov) or by telephone at (866) 973-3131.

(3) If the Contractor is unable to comply with the requirement to use IPP for submitting invoices for payment, the Contractor shall submit a waiver request in writing to the Contracting Officer.

The Contractor may submit an invoice using other than IPP only when—

(i) The Contracting Officer administering the contract for payment has determined, in writing, that electronic submission would be unduly burdensome to the Contractor; and in such cases, the Contracting Officer shall modify the contract to include a copy of the Determination; or

(ii) When the Governmentwide commercial purchase card is used as the method of payment.

(4) The Contractor shall submit any non-electronic payment requests using the method or methods specified in Section G of the contract.

(5) In addition to the requirements of this clause, the Contractor shall meet the requirements of

the appropriate payment clauses in this contract when submitting payment requests.

(6) Invoices submitted through IPP will be either rejected, or accepted and paid, in their entirety, and will not be paid on a partial basis.

(b) The Contractor shall prepare its invoice or request for contract financing payment in accordance with FAR 32.905 on the prescribed Government forms, or the Contractor may submit self-designed forms which contain the required information. Standard Form 1034, *Public Voucher for Purchases and Services other than Personal*, is prescribed for used by contractors to show the amount claimed for reimbursement. Standard Form 1035, *Public Voucher for Purchases and Services other than Personal—Continuation Sheet*, is prescribed for use to furnish the necessary supporting detail or additional information required by the Contracting Officer.

\* \* \* \* \*

(g) \* \* \*

(5) *Voucher Number*—Insert the appropriate serial number of the voucher. A separate series of consecutive numbers, beginning with Number 1, shall be used by the contractor for each new contract. For an adjustment invoice, write “[invoice number] #Adj” at the voucher number. For a final invoice, put invoice number F. For a completion invoice, put invoice number #C.

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*Note to paragraph (i)*—Any costs requiring advance consent by the Contracting Officer will be considered improper and will be disallowed, if claimed prior to receipt of Contracting Officer consent. Include the total cost claimed for the current and cumulative-to-date periods. After the total amount claimed, provide summary dollar amounts disallowed on the contract as of the date of the invoice. Also include an explanation of the changes in cumulative costs disallowed by

addressing each adjustment in terms of: voucher number, date, dollar amount, source, and reason for the adjustment. Disallowed costs should be identified in unallowable accounts in the contractor's accounting system.

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*Note to paragraph (j)*—Any costs requiring advance consent by the Contracting Officer will be considered improper and will be disallowed, if claimed prior to receipt of Contracting Officer consent. Include the total cost claimed for the current and cumulative-to-date periods. After the total amount claimed, provide summary dollar amounts disallowed on the contract as of the date of the invoice. Also include an explanation of the changes in cumulative costs disallowed by addressing each adjustment in terms of: voucher number, date, dollar amount, source, and reason for the adjustment. Disallowed costs should be identified in unallowable accounts in the contractor's accounting system.

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